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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,717	07/26/2002	Gunter Windel	740-X02-011	4657
27317	7590	06/03/2005	EXAMINER	
FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO COURVOISIER CENTRE II, SUITE 404 601 BRICKELL KEY DRIVE MIAMI, FL 33131			SPISICH, MARK	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/088,717	WINDEL, GUNTER
	<b>Examiner</b>	<b>Art Unit</b>
	Mark Spisich	1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 12 April 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 17-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 17-38 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claims 17-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 17 has been amended to recite "at least two groups of bristle elements" as well as "two groups of strip wash elements". While this language is not in itself confusing, it is somewhat vague when read in light of the specification. The specification does mention "groups" of bristles and strip-like elements (eg, pages 4 and 5, lines 17-20 of each), while the overall description of the invention does not mention any groups. On page 4 (lines 17-20), the use of the term "groups" would seem to indicate the number of bristle bundles or the number of strips in each "group". On page 5 (lines 17-20), it would seem that the term "groups" is more intended to refer to radial and axial regions of the brush. This use of the term "groups" is used with specific reference to figure 2 and this figure shows two bristle cleaning elements (6). The alternating can occur either about the periphery of the brush or along the axis (20) of the brush. Thus, figure 2 would seem to show two bristle cleaning elements. This would not be two "groups", as a group would seem to suggest more than one in each group. Thus, the inclusion of the term "groups" into claim 17 raises a question as to the desired or otherwise reasonable interpretation thereof. With regard to the prior art, the term has been given its broadest reasonable interpretation.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 17,20,21,23-25 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Crofts (USP 4,815,158). The patent to Crofts discloses a washing device (2) mounted on a shaft (3) and comprising a plurality of bristle (5) and felt-like (column 2, line 43) strip (8,9) wash elements wherein the two strip elements in fig 3 are both circumferentially spaced as well as being offset along the longitudinal axis of the shaft. The strip element may be approximately equal to or **slightly less than** the length of the bristles (column 2, lines 51-53). Given the known properties of felt strips and bristles for use in car washes, it would not be unreasonable to assume that the bristles are more coarse than the strip. #4 in fig 2 reasonably reads on the "groove rings" as defined in claim 25. With regard to the "groups" of bristles, a group could be a single row of tufts adjacent the felt strip (7) on either side thereof.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1744

5. Claims 26 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crotts (USP 4,815,158). The patent to Crotts discloses the invention substantially as claimed with the exception of specifying the bristle material and the length difference between the bristle and strip members. With regard to claim 26, the materials recited therein are well known plastic materials known to be useful as brush bristles and it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. As the length of the bristles is about 2 feet (column 2, line 35), a length difference of 5 cm is believed to be an obvious modification within the basic teaching of Crotts (see column 2, line 52).

6. Claims 18,19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crotts (USP 4,815,158) in view of Zigerlig (USP 5,884,356). The patent to Crotts discloses the invention substantially as claimed with the exception of the strip member being a closed cell (polyethylene) foam and including a number of slits (4i). The patent to Zigerlig discloses a strip member (4) for use in a car washing device which is of a closed cell foam (column 3, lines 5-12). It would have been obvious to one of ordinary skill to have modified the strip member as such to reduce water absorption into the strips.

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crotts (USP 4,815,158) in view of Belanger et al (USP 5,813,076). The patent to Crotts discloses a felt strip member and fails only to disclose the slits. The patent to Belanger discloses a felt strip (16) (column 4, lines 18-22) which also includes slits (24). It would

have been obvious to one of ordinary skill to have provided slits in the sheet members of Crotts as such to that the sheet would better conform to the shape of a vehicle.

***Allowable Subject Matter***

8. Claims 27-31 and 33-37 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments filed 12 April 2005 have been fully considered but they are not persuasive. Applicant amended claim 17 to recite at least two groups of bristle elements as well as at least two groups of trip wash elements. It is unclear as to what exactly is meant by this language as added to claim 17. First, the recitation of two groups would seem to require at least four of something (being that a group would generally require more than one); however, it is not clear (upon reading of the specification) that applicant really means to recite such an arrangement. Second, the other instance or occurrence of the term "groups" pertains to plural strips and bristle bundles within each discrete peripheral segment of strips or bristles (page 4, lines 17-20). As such, the exact meaning of the term "group" with regard to the strips and the bristles is not particularly clear. Is this meant to recite two strips or four? It would not be unreasonable to interpret the recitation of "two groups" as requiring four strips, although upon reading the specification would hint that that is not exactly what applicant intends to recite in claim 17. The two felt strips (8,9) of Crotts are **both** transversely spaced and longitudinally (axially) spaced with bristle groups (which could arbitrarily be

Art Unit: 1744

defined as a row of tufts) therebetween. It is the view of the examiner that claim 17 does not require the strips and bristles to alternate in a cross-section perpendicular to the shaft (eg, fig 3). Referring to applicant's arguments, the patent to Crotts does disclose felt strips (8,9) which may have a length the same or slightly less than the length of the bristles (5) (column 2, lines 51-53) and as such would inherently contact the vehicle as the brush is rotated and in use against a vehicle. This difference in function (at least as intended) is noted, but such an assertion does not change the fact that the strips still read on the strips as recited in the claim(s). Applicant did argue that there is a single set of bristles in a cross section passing through either one of the felt strips (8,9). As defined by claim 17, there is no requirement that even any single row of tufts (for example one adjacent the felt strip) is a group of bristles and another row or group of bristles adjacent the other of the strip elements would be another group. Looking at the brush as a whole, the two strip elements are transversely spaced, they are just not in a plane perpendicular to the shaft (as in fig 3).

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 1744

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich  
Primary Examiner  
Art Unit 1744

MS